

Docket No.: 0033-1093PUS1  
(Patent)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|                        |                            |                                    |
|------------------------|----------------------------|------------------------------------|
| Patent Application of: | Yusuke YAMADA              | <b>Before the Board of Appeals</b> |
| Application No.:       | 10/589,663                 | Confirmation No.: 9971             |
| Filed:                 | August 16, 2006            | Art Unit: 2416                     |
| For:                   | <u>TRANSMISSION DEVICE</u> | Examiner: Andrews, Leon T.         |

**APPEAL BRIEF**

**MS APPEAL BRIEF-PATENTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is in furtherance of the Notice of Appeal filed in this case on  
September 13, 2010.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1206:

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**APPEAL BRIEF ON BEHALF OF APPELLANT**

**MS APPEAL BRIEF-PATENTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**I. REAL PARTY IN INTEREST**

The real party in interest for this application is the Assignee, SHARP KABUSHIKI KAISHA.

**II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

**III. STATUS OF CLAIMS**

A. Total Number of Claims in Application

There are 11 claims pending in application.

B. Current Status of Claims

1. Claims canceled: None

2. Claims withdrawn from consideration but not canceled: None

3. Claims pending: 1-11
4. Claims allowed: None
5. Claims rejected: 1-11

C. Claims on Appeal

The claims on appeal are claims 1-11.

**IV. STATUS OF AMENDMENTS**

An amendment after the Final Rejection of March 11, 2010, was filed on June 11, 2010, and denied entry by the Advisory Action dated September 16, 2010.

**V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

**A. Independent Claim 1**

The invention of independent claim 1 is directed to a transmission device conducting communication with predetermined quality ensured. This transmission device includes a classification unit (shown as the “Flow Number Calculation Unit” 102 by exemplary FIG. 1) that classifies a packet of data to be transmitted according to each packet header (as explained relative to the flow diagram of FIG. 6 starting at page 15, line 26 and extending to page 16, line 16, for example). This transmission device also includes a determination unit (shown as the “Stream Data Determination Unit” 106 by exemplary FIG. 1) that organizes a set of packets having the same packet header as a packet group according to a classified result by the classification unit (grouped as either being stream data or not being stream data, see page 19, lines 9-14 relative to FIGS. 11A and 11B, for example) and determines whether to transmit with a bandwidth guaranteed according to a bit rate of the packet group (see page 19, lines 20-22, for example). This transmission device further includes a request unit (shown as the “Bandwidth Request Command Generation Unit” 107 in exemplary FIGS. 1 and 12) that requests a bandwidth control device (shown as 2, the “Bandwidth Control Device Side” in Exemplary FIG. 12) to reserve a bandwidth for a packet group determined to be transmitted with a bandwidth guaranteed by said determination unit (see page 19, line 23-227 and page 21, lines 5-8, for example).

**B. Independent Claim 5**

The invention of independent claim 5 is also directed to a transmission device conducting communication with predetermined quality ensured. This independent claim 5 transmission device is like that of independent claim 1 in terms of also requiring a classification unit (shown as the “Flow Number Calculation Unit” 102 by exemplary FIG. 1) that classifies a packet of data to be transmitted according to each packet header (as explained relative to the flow diagram of FIG. 6 starting at page 15, line 26 and extending to page 16, line 16, for example). It is also like the independent claim 1 transmission device in terms of also requiring a determination unit that also organizes a set of packets having the same packet header as a packet group according to a classified result by the classification unit and determines whether to transmit with a bandwidth guaranteed according to a bit rate of the packet group, but does this differently (see the exemplary description of 106’ noted at page 25, lines 12-16).

Further in this respect, independent claim 5 requires that the determination unit (now 106,’ as noted above) “calculates a buffer capacity required when a packet group is to be transmitted in a specific bandwidth” (see exemplary FIGS. 16 and 17, and the description at page 25, lines 17-21, for example). Independent claim 5 also requires that the determination unit (now 106,’ as noted above) also perform the calculation with the bandwidth changed, deriving a relationship between a required bandwidth and a required buffer capacity, and determining whether the packet group is a packet group to be transmitted with a bandwidth guaranteed from said relationship (all as noted at page 26, line 9- page 28, line 12, for example).

The summary of the claimed invention herein is being made to comply with the Patent Office rules in submitting Briefs and is not to be considered as limiting the claimed invention.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The Final Office Action (hereinafter “FOA”) provides the following grounds of rejection to be reviewed on appeal.

- 1) The rejection of claims 1-8 and 10 under 35 U.S.C. § 102(e) as being anticipated by Onoe et al. (U.S. Patent Application Publication No. 2005/0163130, hereinafter “Onoe”).
- 2) The rejection of claims 9 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Onoe in view of Rogers (U.S. Patent Application Publication No. 2001/0036181).

## VII. ARGUMENTS

### A. Rejection of Claims 1-8 and 10 under 35 U.S.C. § 102(e)

#### 1. Independent Claim 1

In support of the rejection of independent claim 1 as being anticipated by Onoe, the Examiner erroneously alleges that Onoe reasonably teaches at least the following subject matter from independent claim 1 in the manner indicated:

a request unit (identifier from the packet communication, ¶ [0015], page 2, lines 4-5) requesting a bandwidth control device to reserve a bandwidth for a packet group determined to be transmitted with a bandwidth guaranteed (packet identifier from the packet header decides that the related packet is guaranteed in bandwidth and is transferred in a bandwidth set of the guaranteed bandwidth, ¶ [0015], page 2, lines 5-9) by said determination unit.

Applicant respectfully disagrees that this clearly erroneous analysis of the indicated teachings of Onoe as corresponding to the above-noted independent claim 1 subject matter is sufficient to anticipate claim 1.

At the outset, it is noted that the relied on portions of Onoe only indicate that each Onoe suggested relay node is to decide whether or not the related packet is guaranteed in bandwidth by the packet identifier as disclosed by ¶ [0015] of Onoe as follows:

[0015] The packet header is usually added to a packet to be transmitted by the transmitter side host and transmitted to the network together with the data portion of the packet. Then, at the time of packet communication, each relay node detects the packet identifier from the packet header added to each packet, decides whether or not the related packet is guaranteed in bandwidth by that, and transfers the related packet in a bandwidth set in the table of the packet identifiers and guaranteed bandwidths shown in FIG. 3, that is, at a certain constant transfer speed in the case of the bandwidth guaranteed packet.

Thus, it is clear that relied upon lines 5-9 of ¶ [0015] of Onoe do not reasonably teach anything that can be said to correspond to the claim 1 requirement that there is a request unit **requesting a bandwidth control device to reserve a bandwidth for a packet group** determined to be transmitted with a bandwidth guaranteed by the determination unit.

According to the above-noted teachings of Onoe, packet rate transfer is accomplished at the time of packet communication by each relay node detecting the packet identifier from the

packet header and then transmitting the corresponding packet with a guaranteed bandwidth if the packet identifier is identified as being one of the identifiers for which the packet is to be transmitted with a specified guaranteed bandwidth. There clearly is no teaching of any “request unit,” much less any request to a “bandwidth control device to reserve a bandwidth for a packet group.” Instead, the packets of Onoe are taught to be transferred at a guaranteed bandwidth based strictly on the packet identifier identifying a particular preset corresponding guaranteed bandwidth from the table of FIG.3. Assuming that the real reliance is on the idea that the table listings of FIG. 3 provide reserved guaranteed bandwidths (100, 150, etc.) as to each packet identifier (PA, PB, etc.), these reserved guaranteed bandwidths are preset into the table and are not requested by any “request unit,” and not then reserved by any “bandwidth control device” based on any request. Clearly, the claim 1 “request unit” and “bandwidth control device” are not taught by the table of FIG. 3 as apparently assumed by the Examiner.

For at least the above-noted reasons it is respectfully submitted to be clear that Onoe does not teach all of the subject matter recited by independent claim 1 and, therefore, cannot be said to reasonably anticipate the subject matter of independent claim 1. Accordingly, reversal of the erroneous rejection of independent claim 1 as being anticipated by Onoe is respectfully requested.

## **2. Independent Claim 5**

Turning to independent claim 5, it is first noted that this independent claim is like independent claim 1 in requiring a classification unit, a determination unit and a “request unit” that again must request **“a bandwidth control device to reserve a bandwidth for a packet group”** (emphasis added). Page 5 of the FOA again erroneously suggests that the above-noted teachings at lines 5-9 of ¶ [0015] of Onoe somehow can be said to reasonably teach this “request unit” as well as teaching the claimed “bandwidth control device” that must operate “to reserve a bandwidth for a packet group.” As explained above, there are no such teachings of this claimed subject matter that appear at lines 5-9 of ¶ [0015] of Onoe.

Furthermore, independent claim 5 adds specific requirements as to the operation of the determination unit that must calculate “a buffer capacity required when a packet group is to be transmitted in a specific bandwidth” by “performing the calculation with the bandwidth changed, deriving a relationship between a required bandwidth and a required buffer capacity,

and determining whether the packet group is a packet group to be transmitted with a bandwidth guaranteed from said relationship.”

Even if it can be said that ¶ [0015] and ¶ [0018] of Onoe suggests a buffer for each queue, and ¶ [0011] of Onoe teaches that “packets indicated by bandwidth guarantee of data 100 and 150 are represented by numerals proportional to the guaranteed bandwidth” as urged in the paragraph bridging pages 5 and 6 of the FOA, there is absolutely no reasonable teaching or suggestion to be found in these disjointed teachings pointing to the above-noted independent claim 5 determination unit determining the above-noted “buffer capacity required when a packet group is to be transmitted in a specific bandwidth” in the manner specified (by “performing the calculation with the bandwidth changed, deriving a relationship between a required bandwidth and a required buffer capacity, and determining whether the packet group is a packet group to be transmitted with a bandwidth guaranteed from said relationship”).

Thus, Onoe further fails to teach or suggest all of the limitations of independent claim 5 and the reversal of the erroneous rejection of independent claim 5 as being anticipated by Onoe is also respectfully requested.

### **3. Dependent Claim 2**

Dependent claim 2 adds that the determination unit of parent claim 1 must further include “a measurement unit” that must measure “the bit rate per predetermined unit time of said packet group,” along with “a calculation unit” that must calculate “a parameter representing variation in the bit rate with a latest predetermined number of data to be a subject from a measured result by said measurement unit,” and “a packet determination unit” that must determine “that the packet group is a packet group to be transmitted with a bandwidth guaranteed when the parameter calculated by said calculation unit is at most a preset value.”

Page 3 of the FOA attempts to correlate this claim 2 “measurement unit” that must measure “the bit rate per predetermined unit time of said packet group” (emphasis added) to the Onoe table of FIG. 3 noted in ¶ [0011] and ¶ [0015]. However, this FIG. 3 table is not reasonably equated to the claim 2 required “measurement unit” because this FIG. 3 table clearly measures nothing. Instead of measuring the claim 2 required “bit rate per predetermined unit time of said packet group,” this FIG. 3 table merely lists individual packet identifiers (PA, PB, etc.) that identify the packets to be transferred and the guaranteed bandwidths (100, 150, etc.)



corresponding to different packet identifiers to be used for the transfer. Thus nothing in ¶ [0011] and ¶ [0015] of Onoe remotely suggests measuring any “bit rate per unit time of said packet group.”

Also, there is no hint of any “calculation unit” of the nature claimed as to this exact same table of FIG. 3 relied on to correspond to the “measurement unit.” Contrary to the claimed requirement for “calculating a parameter representing variation in the bit rate [that has to be the bit rate per unit time of said packet group], the end of ¶ [0011] (at relied on lines 9-16) simply teaches that transfer speeds are in bits per second and that a packet is transferred at the speed determined from the table.

In this last regard, claim 2 requires the above-noted “packet determination unit” that must determine “that the packet group is a packet group to be transmitted with a bandwidth guaranteed when the parameter calculated by said calculation unit is at most a preset value,” not simply that packets will be transferred at a constant transfer speed based upon the guaranteed bandwidths of the table as discussed in ¶ [0015] of Onoe.

Thus, Onoe fails to teach or suggest all of the limitations of dependent claim 2 and the reversal of the erroneous rejection of dependent claim 2 as being anticipated by Onoe is also respectfully requested.

### **3. Dependent Claim 3**

Dependent claim 3 depends from claim 2 and further requires that the “calculation unit” must increase “the number of data to be the subject of calculation when the calculated parameter is larger than a preset value and recalculates the parameter.” Page 4 of the FOA suggests that lines 5-17 of ¶ [0011] of Onoe that do not even mention any calculation and only describe the packet identifiers and corresponding guaranteed bandwidths of the table illustrated by FIG. 3 somehow teach this specific claim 3 required calculation. This determination is a clear error and the rejection of dependent claim 3 as being anticipated by Onoe based upon this clearly erroneous reliance on lines 5-17 of ¶ [0011] of Onoe is without merit.

Accordingly, the reversal of the erroneous rejection of dependent claim 3 as being anticipated by Onoe is also respectfully requested.

### **4. Dependent Claim 4**

Dependent claim 4 depends from claim 2 and further requires that the “calculation unit” must repeat “calculation of the parameter until the parameter becomes at most the preset value, or said number of data to be the subject becomes a maximum that is determined in advance, while sequentially increasing the number of data to be the subject.” Page 4 of the FOA again suggests that lines 5-17 of ¶ [0011] of Onoe that do not even mention any calculation and only describe the packet identifiers and corresponding guaranteed bandwidths of the table illustrated by FIG. 3 somehow also teach this specific claim 4 calculation. This determination is also clear error and the rejection of dependent claim 4 as being anticipated by Onoe based upon this clearly erroneous reliance on lines 5-17 of ¶ [0011] of Onoe is without merit.

Accordingly, the reversal of the erroneous rejection of dependent claim 4 as being anticipated by Onoe is also respectfully requested.

#### **5. Dependent Claim 10**

Dependent claim 10 depends from claim 1 and further requires that the “when there is a change of at least a predetermined criterion in characteristics of a bit rate of a packet group once determined to be transmitted with a bandwidth guaranteed by said determination unit, said request unit requests said bandwidth control device to modify the bit rate of the bandwidth guaranteed for the packet group to the latest value.” The paragraph bridging pages 7 and 8 of the FOA again suggests that lines 5-17 of ¶ [0011] that only describe the packet identifiers and corresponding guaranteed bandwidths of the table illustrated by FIG. 3 somehow also teach this specific claim 10 recitation as to a “request unit” request to the claimed “bandwidth control device” to then “modify the bit rate of the bandwidth guaranteed for the packet group” is clearly an erroneous interpretation. Thus, the rejection of dependent claim 10 as being anticipated by Onoe based upon this clearly erroneous reliance on lines 5-17 of ¶ [0011] is again without merit.

Accordingly, the reversal of the erroneous rejection of dependent claim 10 as being anticipated by Onoe is also respectfully requested.

#### **6. Dependent Claims 6- 8**

Dependent claim 6 depends from claim 5 and further requires that “said determination unit extracts a maximum value of the buffer capacity required for each requested bandwidth, and determines whether the packet group is a packet group to be transmitted with a bandwidth

guaranteed depending upon whether a graph representing a relationship between a requested bandwidth and the maximum value of the required buffer capacity is within a predetermined region or not.” Page 8 of the FOA suggests that lines 4-7 of ¶ [0026] are somehow relevant to this limitation along with lines 1-4 of ¶ [0018], lines 1-7 of ¶ [0016] and lines 5-17 of ¶ [0011].

However, lines 4-7 of ¶ [0026] only teach that an otherwise undefined best effort for raising transfer speed as much as possible has been made. This is not a disclosure teaching extracting “a maximum value of the buffer capacity required for each requested bandwidth” and does not change the teaching of lines 5-17 of ¶ [0011] that “[e]ach relay node identifies the packet to be transferred by the packet identifier and performs the packet communication in the guaranteed bandwidth requested with respect to that packet, that is, at a requested transfer speed.” Similarly, just as lines 4-7 of ¶ [0026] do not change this teaching of ¶ [0011], neither do the teachings of either ¶ [0016] or of ¶ [0018]. Clearly, and contrary to the erroneous assertions in the FOA, nothing in any of ¶ [0011], ¶ [0016], ¶ [0018], or ¶ [0026] even hint at the required extracting of “a maximum value of the buffer capacity required for each requested bandwidth,” much less determining if a “packet group is a packet group to be transmitted with a bandwidth guaranteed depending upon whether a graph representing a relationship between a requested bandwidth and the maximum value of the required buffer capacity is within a predetermined region or not.” Thus, the rejection of dependent claim 6 as being anticipated by Onoe based upon this clearly erroneous reliance at page 8 of the FOA is without merit.

Accordingly, the reversal of the erroneous rejection of dependent claim 6 as being anticipated by Onoe is also respectfully requested.

With regard to dependent claims 7 and 8, it is noted that these claims depend directly or indirectly from dependent claim 6. It is respectfully submitted that the rejection of claims 7 and 8 as being anticipated by Onoe should also be reversed for the reasons set forth above with regard to dependent claim 6 and ultimate parent claim 5.

## **B. Rejection of Claims 9 and 11 under 35 U.S.C. § 103(a)**

### **1. Dependent Claim 9**

In support of the rejection of dependent claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Onoe in view of Rogers, at page 8 of the FOA refers to ¶ [0025] of Rogers to

teach release of bandwidth and not to cure the deficiencies of Onoe as to parent claim 1 that are noted above.

In addition to Rodgers not curing the above-noted deficiencies of Onoe, relied upon ¶ [0025] of Rogers only teaches the release of bandwidth when the session is complete (the call is terminated). On the other hand, dependent claim 9 requires that “when determination is made by said determination unit that a packet group once determined to be transmitted with a bandwidth guaranteed is not observed for a predetermined time and is no longer necessary to ensure the bandwidth, said request unit requests said bandwidth control device to release the bandwidth guaranteed for the packet group.” Clearly, Rogers does not teach the “request unit” as claimed or that this “request unit” requests “said bandwidth control device to release the bandwidth guaranteed for the packet group,” much less the specified condition that this occurs when the specified packet group has not been observed for a specified time. Thus, even if the artisan were to modify Onoe as taught by the relied on teaching from ¶ [0025] of Rogers, the result would not be the subject matter of dependent claim 9.

Accordingly, the reversal of the erroneous rejection of dependent claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Onoe in view of Rogers is respectfully requested.

### **1. Dependent Claim 11**

In support of the rejection of dependent claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Onoe in view of Rogers, page 9 of the FOA relies again on ¶ [0025] of Rogers to teach release of bandwidth and not to cure the deficiencies of Onoe as to parent claim 1.

In addition to Rodgers not curing the above-noted deficiencies of Onoe, relied upon ¶ [0025] of Rogers only teaches the release of bandwidth when the session is complete (the call is terminated). On the other hand, dependent claim 11 requires that “when there is a change of at least a predetermined criterion in characteristics of a bit rate of a packet group once determined to be transmitted with a bandwidth guaranteed by said determination unit, said request unit requests said bandwidth control device to release the bandwidth guaranteed for said packet group.” Clearly, ¶ [0025] of Rogers does not teach the “request unit” as claimed or that this “request unit” requests “said bandwidth control device to release the bandwidth guaranteed for the packet group,” much less the specified condition that this occurs when “there is a change of at least a predetermined criterion in characteristics of a bit rate of a packet group.” Therefore,

even if the artisan were to modify Onoe as taught by the relied on teaching from ¶ [0025] of Rogers, the result would not be the subject matter of dependent claim 11.

Accordingly, the reversal of the erroneous rejection of dependent claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Onoe in view of Rogers is respectfully requested.

**VIII. CLAIMS**

A copy of the claims involved in the present appeal is attached hereto as Appendix A.

**IX. EVIDENCE**

There is no additional evidence pursuant to §§ 1.130, 1.131, or 1.132 and/or evidence entered by or relied upon by the examiner that is relevant to this appeal as noted in Appendix B.

**X. RELATED PROCEEDINGS**

No related proceedings are referenced in II. above, and thus, copies of decisions in related proceedings are not provided.

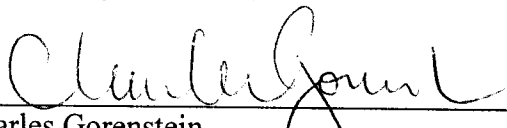
**XI. CONCLUSION**

The reversal of the outstanding rejections and the allowance of claims 1-11 are earnestly solicited.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: November 12, 2010

Respectfully submitted,

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## APPENDIX A

### **Claims Involved in the Appeal of Application No. 10/589,663**

1. (Previously presented) A transmission device conducting communication with predetermined quality ensured, comprising:

a classification unit classifying a packet of data to be transmitted according to each packet header,

a determination unit organizing a set of packets having the same packet header as a packet group according to a classified result by said classification unit, and determining whether to be transmitted with a bandwidth guaranteed according to a bit rate of the packet group, and

a request unit requesting a bandwidth control device to reserve a bandwidth for a packet group determined to be transmitted with a bandwidth guaranteed by said determination unit.

2. (Previously presented) The transmission device according to claim 1, wherein said determination unit comprises

a measurement unit measuring the bit rate per predetermined unit time of said packet group,

a calculation unit calculating a parameter representing variation in the bit rate with a latest predetermined number of data to be a subject from a measured result by said measurement unit, and

a packet determination unit determining that the packet group is a packet group to be transmitted with a bandwidth guaranteed when the parameter calculated by said calculation unit is at most a preset value.

3. (Previously presented) The transmission device according to claim 2, wherein said calculation unit increases the number of data to be the subject of calculation when the calculated parameter is larger than a preset value and recalculates the parameter, and

said packet determination unit determines that the packet group is the packet group to be transmitted with a bandwidth guaranteed when a value of said recalculated parameter is at most the preset value.

4. (Previously presented) The transmission device according to claim 2, wherein said calculation unit repeats calculation of the parameter until the parameter becomes at most the preset value, or said number of data to be the subject becomes a maximum that is determined in advance, while sequentially increasing the number of data to be the subject.

5. (Previously presented) A transmission device conducting communication with predetermined quality ensured, comprising:

a classification unit classifying a packet of data to be transmitted according to each packet header,

a determination unit organizing a set of packets having the same packet header as a packet group according to a classified result by said classification unit, and determining whether to transmit with a bandwidth of said packet group ensured, and

a request unit requesting a bandwidth control device to reserve a bandwidth for a packet group,

wherein said determination unit calculates a buffer capacity required when a packet group is to be transmitted in a specific bandwidth, performing the calculation with the bandwidth changed, deriving a relationship between a required bandwidth and a required buffer capacity, and determining whether the packet group is a packet group to be transmitted with a bandwidth guaranteed from said relationship.

6. (Previously presented) The transmission device according to claim 5, wherein said determination unit extracts a maximum value of the buffer capacity required for each requested bandwidth, and determines whether the packet group is a packet group to be transmitted with a bandwidth guaranteed depending upon whether a graph representing a relationship between a requested bandwidth and the maximum value of the required buffer capacity is within a predetermined region or not.



7. (Previously presented) The transmission device according to claim 6, wherein said determination unit causes said request unit to request a bandwidth in said predetermined region, and requests a buffer unit to ensure the maximum value of the buffer capacity in said predetermined region.

8. (Previously presented) The transmission device according to claim 7, wherein said determination unit determines the bandwidth to be requested and the buffer capacity to be ensured such that a total cost is minimized based on a cost required to ensure the bandwidth and a cost of the buffer capacity.

9. (Previously presented) The transmission device according to claim 1, wherein, when determination is made by said determination unit that a packet group once determined to be transmitted with a bandwidth guaranteed is not observed for a predetermined time and is no longer necessary to ensure the bandwidth, said request unit requests said bandwidth control device to release the bandwidth guaranteed for the packet group.

10. (Previously presented) The transmission device according to claim 1, wherein, when there is a change of at least a predetermined criterion in characteristics of a bit rate of a packet group once determined to be transmitted with a bandwidth guaranteed by said determination unit, said request unit requests said bandwidth control device to modify the bit rate of the bandwidth guaranteed for the packet group to the latest value.

11. (Previously presented) The transmission device according to claim 1, wherein, when there is a change of at least a predetermined criterion in characteristics of a bit rate of a packet group once determined to be transmitted with a bandwidth guaranteed by said determination unit, said request unit requests said bandwidth control device to release the bandwidth guaranteed for said packet group.

**APPENDIX B**

There is no additional evidence pursuant to §§ 1.130, 1.131, or 1.132 and/or evidence entered by or relied upon by the examiner that is relevant to this appeal.

**APPENDIX C**

There are no related proceedings as noted in II. above.